

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**MAYLENE OTERO**, as  
Parent and Natural Guardian of **K.R.O.**, and  
**MAYLENE OTERO**,  
Individually, *et al.*,  
Plaintiffs,

25-CV-02773 (LJL)

**DECLARATION**

-against-

**MELISSA AVILES-RAMOS**, in her official  
capacity as Chancellor of the New York City  
Department of Education, and **THE NEW YORK  
CITY DEPARTMENT OF EDUCATION**,

Defendants.

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**ARTHUR MIELNIK**, declares under 28 U.S.C. § 1746 that:

1. I am the Director of Strategic Planning for the International Academy for the Brain ("iBRAIN").
2. As the Director of Strategic Planning, I have direct knowledge of all tuition payments received by iBRAIN, as well as outstanding balances. I am also well acquainted with the submission processes and communications involving the DOE's Implementation Unit.
3. I am familiar with the payments that are due for nursing and transportation services as a result of routine correspondence with the respective vendors in the normal course of business.
4. As of April 3, 2025, the New York State Department of Education ("DOE") has failed to remit timely payments for mandated pendency services under the IDEA to iBRAIN, despite multiple prior submissions of required documentation to the DOE Implementation Unit.
5. I respectfully bring the Court's attention to the case of student K.R. (Case #277052), for whom the DOE's handling of pendency tuition payments has been particularly irregular and illustrative of broader systemic delays.
6. iBRAIN invoiced the DOE for tuition in the total amount of \$343,100.60 for the 2024–2025 school year.
7. For this student all necessary documents to process payment were in the DOE's possession as of August 8, 2024, and then resubmitted a second time on September 4, 2024.

8. To date, the DOE has only issued partial payments totaling \$85,775.16, which were received in three separate transactions, all occurring on or about October 5, 2024.
9. A fourth and final payment, in the amount of \$257,325.44, the full remaining balance, was scheduled for payment and entered into the DOE's Payee Information Portal (PIP) on or about October 14, 2024.
10. However, that payment was subsequently cancelled by the DOE on October 16, 2024, just prior to its scheduled release. No further explanation or replacement payment has been issued as of the date of this declaration.
11. As a result, the full balance of \$257,325.44 remains outstanding in tuition payments for K.R. despite the DOE's prior acknowledgment of the obligation and initiation of payment processing. On December 23, 2024, the following documents were submitted to the DOE pursuant to Impartial Hearing Officer ("IHO") Kotchek's Findings of Fact and Decision ("FOFD"): the DPC, iBRAIN Tuition Affidavit, iBRAIN Attendance, Sister's Travel and Transportation, Affidavit, Sister's Travel and Transportation Invoice, B&H Healthcare Service, Inc. Affidavit, B&H Healthcare Service, Inc. Invoice, FOFD, and SRO Decision.
12. To date, the DOE has not yet paid any amounts toward transportation services and nursing services, leaving a shortfall of \$191,111.00 and \$333,608.00, respectively, for transportation and nursing services, in accordance with IHO Kotchek's FOFD issued on September 3, 2024.
13. The total outstanding amount that the DOE still owes for K.R.O.'s 2024-25 ESY at iBRAIN, inclusive of transportation and nursing services expenses, which are critical for the proper implementation of the extended school year, is \$782,044.44.
14. This instance is not isolated but rather indicative of a systemic pattern of delays in pendency payments, which continues to place iBRAIN's entire educational program under significant and ongoing financial risk.
15. This broader, systemic failure has resulted in a total of \$3,730,397.00 in outstanding tuition payments due to iBRAIN for the 2024–2025 school year, specifically under pendency entitlements.
16. The amounts outstanding referenced herein pertain solely to tuition payments and do not include additional unpaid costs to other agencies supporting the students such as

transportation and nursing services, which, when included, bring the total sum owed by DOE to several million dollars more.

17. For the students listed below, iBRAIN submitted all required documentation to the appropriate DOE personnel as early as August 2024. In many cases, pendency payments have only been rendered through March 31, 2025, while several students remain entirely unpaid for the current school year.
18. As such, all payments due after the due date are now delinquent and accruing late fees, for which DOE remains legally responsible.
19. A full and accurate itemization of the students, case numbers, and tuition balances is maintained in iBRAIN's records and has been previously shared with DOE leadership and the Implementation Unit.
20. The following students, have pendency placement at iBRAIN and continue to have a current outstanding balances as of the date of this declaration:

<u>Initials</u>	<u>Case Number</u>	<u>Tuition Billed</u>	<u>Tuition Received</u>	<u>Total Outstanding</u>
AB	277237	\$ 346,088.80	\$ 259,566.57	\$ 86,522.23
NA	277153	\$ 328,159.60	\$ 246,119.69	\$ 82,039.91
KA	277107	\$ 337,124.20	\$ 252,843.12	\$ 84,281.08
EB	284180	\$ 310,230.40	\$ 206,749.21	\$ 103,481.19
JB	277050	\$ 340,112.40	\$ 255,084.30	\$ 85,028.10
HC	277039	\$ 326,779.40	\$ 246,505.04	\$ 80,274.36
OC	284069	\$ 346,088.80	\$ 259,566.59	\$ 86,522.21
ACT	277096	\$ 346,088.80	\$ 259,566.59	\$ 86,522.21
SC	277083	\$ 343,100.60	\$ 257,325.48	\$ 85,775.12
MC	277178	\$ 372,982.60	\$ 279,736.94	\$ 93,245.66
ZC	277285	\$ 323,791.20	\$ -	\$ 323,791.20
OD	277837	\$ 343,100.60	\$ 200,142.00	\$ 142,958.60
EDR	277280	\$ 331,147.80	\$ -	\$ 331,147.80
DDL	277231	\$ 325,171.40	\$ 243,878.56	\$ 81,292.84
OF	275761	\$ 316,206.80	\$ -	\$ 316,206.80
AF	277101	\$ 311,838.40	\$ 233,878.79	\$ 77,959.61
MG	277060	\$ 329,767.60	\$ 249,174.15	\$ 80,593.45
HG	278155	\$ 337,124.20	\$ 245,593.14	\$ 91,531.06
VG	277119	\$ 346,088.80	\$ 259,566.57	\$ 86,522.23
LM	277244	\$ 355,053.40	\$ 177,526.68	\$ 177,526.72
AM	277268	\$ 349,077.00	\$ 261,807.50	\$ 87,269.50
RP	277077	\$ 343,100.60	\$ 257,325.48	\$ 85,775.12

WR	277110	\$ 335,744.00	\$ 251,808.00	\$ 83,936.00
KR	277052	\$ 343,100.60	\$ 85,775.16	\$ 257,325.44
LS	277282	\$ 334,136.00	\$ 250,527.00	\$ 83,609.00
AT	277264	\$ 314,826.60	\$ -	\$ 314,826.60
CP	275795	\$ 337,124.20	\$ 252,843.12	\$ 84,281.08
RZ	289807	\$ 246,425.74	\$ 96,273.86	\$ 150,151.88

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**Total Outstanding:** \$ 3,730,397.00

21. I make this declaration in support of the enforcement of payment obligations owed to International Academy for the Brain Ltd. by the New York State Department of Education.
22. I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct to the best of my knowledge, information, and belief.
23. I executed this document on April 03, 2025.

**Dated:** April 03, 2025

New York, New York

By:   
Arthur Mielnik